

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CATHOLIC SOCIAL SERVICES,  
INC., IMMIGRATION PROGRAM,  
et al.,

No. CIV. S-86-1343 LKK/JFM

Plaintiffs,

**ORDER**

v.

JEH JOHNSON, Secretary of  
Department of Homeland  
Security, et al.,

Defendants.

By order filed August 26, 2013, defendants were ordered to pay the Special Master \$5,750.00 for outstanding invoices representing 92 appeals and "reasonable fees and costs" incurred by the Special Master in securing that order. Order filed August 26, 2013 (ECF No. 726). On July 8, 2014, the Special Master filed a request for reasonable attorney's fees in the amount of \$26,475 (ECF No. 727). On July 22, 2014, the court granted the request and entered an order directing defendants to pay the Special Master reasonable attorney's fees in the amount of

1       \$26,475 (ECF No. 729). On July 24, 2014, defendants filed a  
2 response to the Special Master's request and a request for  
3 reconsideration of the court's July 22, 2014 order (ECF No. 730).  
4 By order filed July 25, 2014, the Special Master was granted ten  
5 days to file a response to defendants' request for  
6 reconsideration (ECF No. 731). On August 1, 2014, the Special  
7 Master filed his response (ECF No. 732).

8           The dispute at bar stems from defendants' failure to pay  
9 their share of the cost of 92 appeals adjudicated by the Special  
10 Master pursuant to the settlement agreement in this case. The  
11 settlement agreement in this case makes specific provision for  
12 the Special Master's compensation for adjudicating such appeals.  
13 See Settlement Agreement at ¶ 9. The Special Master and  
14 defendants are in agreement that said provision does not govern  
15 the instant dispute.

16           The court has already determined that the Special Master is  
17 entitled to reasonable fees and costs associated with obtaining  
18 the August 26, 2013 order. See Order filed August 26, 2013 (ECF  
19 No. 726). Defendants concede that the Special Master is entitled  
20 to a reasonable fee. Defs.' Resp. (ECF No. 730) at 9.  
21 Defendants do not object to the hours spent by the Special Master  
22 on this dispute. See id. at 7. The sole dispute is what hourly  
23 rate is proper.

24           The Special Master seeks compensation at a rate of \$500 per  
25 hour, which he represents is "far below his normal market rate."  
26 Special Master's Resp. (ECF No. 732) at 1. Defendants contend he  
27 should be compensated at the statutory rate provided in the Equal  
28 Access to Justice Act, 8 U.S.C. § 2412(d) (EAJA), which they

1 contend is "applied in most immigration related fee awards."  
2 Defs. Resp. (ECF No. 730) at 3. The Special Master argues that  
3 the court's authority to award fees arises its' "inherent power  
4 to administer settlement between the parties" pursuant to Fed.  
5 Civ. P. 53 and the dispute at bar does not fall within the ambit  
6 of EAJA.

7 The court agrees that the authority to award attorneys' fees  
8 to the Special Master in the present dispute arises from Rule 53.  
9 In particular, Rule 53(g)(1) provides that

10 Before or after judgment, the court must fix  
11 the master's compensation on the basis and  
12 terms stated in the appointing order, but the  
court may set a new basis and terms after  
giving notice and an opportunity to be heard.  
13

14 Fed. R. Civ. P. 53(g)(1).

15 The dispute at bar requires an additional basis for  
16 compensating the Special Master, and the parties have been given  
17 notice and an opportunity to be heard on the matter. As noted  
18 above, the settlement agreement does not cover hourly rates for  
19 the Special Master in the circumstance at bar. The court must,  
therefore, determine a reasonable hourly rate for this matter.  
21 In making this determination, the court takes its guidance from  
22 the requirement for fee awards under 42 U.S.C. § 1988 that the  
23 reasonable hourly rate be "calculated according to the prevailing  
market rates in the relevant community." Blum v. Stenson, 465  
24 U.S. 886, 895 (1984). Here, the relevant community is the  
26 community of Special Masters who serve this court. Currently,  
27 this court has one Special Master who is compensated at an hourly  
rate. In Coleman v. Brown, 90-0520 LKK/DAD, the Special Master

1 is compensated at an hourly rate of \$260.00 hour.<sup>1</sup> The court  
2 finds that \$260.00 per hour is a reasonable hourly rate for Mr.  
3 Boswell's work on the instant fee petition.

4 There being no dispute over the number of hours claimed by  
5 the Special Master, which total 61.45, defendants will be ordered  
6 to pay the Special Master reasonable fees associated with  
7 obtaining the August 26, 2013 order and this order in the amount  
8 of \$15,977.00.

9 In accordance with the above, IT IS HEREBY ORDERED that:

- 10 1. Defendants' July 24, 2014 motion for reconsideration of  
11 this court's July 22, 2014 order is granted in part;  
12 2. Defendants are ordered to pay the Special Master  
13 reasonable fees associated with obtaining the August 26, 2013  
14 order and this order in the amount of \$15,977.00.

15 DATED: August 28, 2014.

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20 LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT  
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27 <sup>1</sup> The services of the Special Master in Valdivia v. Brown, No. 94-0671 ended  
28 in 2013, when that case was terminated. Prior to termination, the Special  
Master in Valdivia was compensated at an hourly rate of \$200.00 per hour. See  
ECF No. 1858-1.